Regular Session, 2008

HOUSE BILL NO. 902

BY REPRESENTATIVE GREENE

ETHICS/FINANCIAL DISCLOS: Provides relative to financial disclosure

AN ACT

To amend and reenact R.S. 42:1124.2(C)(5)(b), (c), and (d), (7), and (8), to enact R.S. 42:1124.2(C)(5)(e) and (G)(5), and to repeal R.S. 42:1124.2(C)(9) and (10), relative to financial disclosure; to provide relative to the content of certain disclosures required to be filed by certain public servants; to provide relative to the content of certain disclosures required to be filed by candidates for certain offices; to provide for definitions; to provide relative to penalties; to provide relative to effectiveness; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 42:1124.2(C)(5)(b), (c), and (d), (7), and (8) are hereby amended and reenacted and R.S. 42:1124.2(C)(5)(e) and (G)(5) are hereby enacted to read as follows:

§1124.2. Financial disclosure; certain elected officials; ~~voting districts of five thousand or more~~; <u>certain</u> state boards and commissions<u>; ethics administrator</u>

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C. The financial statement required by this Section shall be filed on a form prescribed by the Board of Ethics and shall include the following information for the preceding calendar year:

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(5)

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CODING: Words in ~~struck through~~ type are deletions from existing law; words <u>underscored</u> are additions.

(b) The name and address of any employer which provides income to the individual or spouse pursuant to the full-time or part-time employment of the individual or spouse, including a brief description of the nature of the services rendered pursuant to such employment and the amount of such income, excluding information required to be reported pursuant to Subparagraph ~~(5)(a)~~ (a) of this ~~Subsection~~ Paragraph.

(c) The name and address of all businesses which provide income to the individual or spouse, including a brief description of the nature of services rendered for each business or of the reason such income was received, and the aggregate amount of such income, excluding information required to be reported pursuant to Subparagraph ~~(5)(a)~~ (a) or (b) of this ~~Subsection~~ Paragraph.

(d) A brief description of each security which provides income to the individual or spouse, including the amount of the income, excluding information required to be reported pursuant to Subparagraph (a), (b), or (c) of this Paragraph. This Subparagraph shall not be deemed to require the disclosure of information concerning any security held and administered for any person other than the individual or spouse under a trust, tutorship, curatorship, or other custodial instrument.

(e) A description of the type of any other income, exceeding one thousand dollars received by the individual or spouse, including a brief description of the nature of the services rendered for the income or the reason such income was received, and the amount of income, excluding information required to be reported pursuant to Subparagraph ~~(5)(a),~~ (a), (b), ~~or~~ (c), or (d) of this ~~Subsection~~ Paragraph.

* * *

~~(7) The name and a brief description of each investment security having a value exceeding five thousand dollars held by the individual or spouse, excluding variable annuities, variable life insurance, variable universal life insurance, whole life insurance, any other life insurance product, mutual funds, education investment accounts, retirement investment accounts, government bonds, and cash or cash~~

~~equivalent investments. This Paragraph shall not be deemed to require disclosure of information concerning any property held and administered for any person other than the individual or spouse under a trust, tutorship, curatorship, or other custodial instrument.~~

~~(8) A brief description, amount, and date of any purchase or sale, in excess of five thousand dollars, of any immovable property and of any personally owned tax credit certificates, stocks, bonds, or commodities futures, including any option to acquire or dispose of any immovable property or of any personally owned tax credit certificates, stocks, bonds, or commodities futures. This Paragraph shall not be deemed to require disclosure of information concerning variable annuities, variable life insurance, variable universal life insurance, whole life insurance, any other life insurance product, mutual funds, education investment accounts, retirement investment accounts, government bonds, cash or cash equivalent investments.~~

~~(9)~~ <u>(7)</u> The name and address of each creditor, and name of each guarantor, if any, to whom the individual or spouse owes any liability which exceeds ten thousand dollars on the last day of the reporting period excluding:

(a) Any loan secured by movable property, if such loan does not exceed the purchase price of the movable property which secures it.

(b) Any liability, secured or unsecured, which is guaranteed by the individual or spouse for a business in which the individual or spouse owns any interest, provided that the liability is in the name of the business and, if the liability is a loan, that the individual or spouse does not use proceeds from the loan for personal use unrelated to the business.

(c) Any loan by a licensed financial institution which loans money in the ordinary course of business.

(d) Any liability resulting from a consumer credit transaction as defined in R.S. 9:3516(13).

(e) Any loan from an immediate family member, unless such family member is a registered lobbyist, or his principal or employer is a registered lobbyist, or he employs or is a principal of a registered lobbyist, or unless such family member has a contract with the state.

~~(10)~~ (8) A certification that such individual has filed his federal and state income tax returns, or has filed for an extension of time for filing such tax returns.

* * *

G. For purposes of this Section, the following words shall have the following meanings:

* * *

(4) "Security" shall have the same meaning as provided in Part 1 of Chapter 8 of Title 10 of the Louisiana Revised Statutes of 1950. However, "security" shall not be deemed to include variable annuities, variable life insurance, variable universal life insurance, whole life insurance, any other life insurance product, mutual funds, education investment accounts, retirement investment accounts, government bonds, and cash or cash equivalent investments.

(5) "State board or commission" means each board, commission, and like entity created by law or executive order which is made a part of the executive branch of state government by the provisions of Title 36 of the Louisiana Revised Statutes of 1950, or which is placed in an executive branch department or in the office of the governor or lieutenant governor by law or executive order, or which exercises any authority or performs any function of the executive branch of state government. "State board or commission" shall not include an entity created as a political subdivision of the state or of local government or as the governing body or an agency of a political subdivision.

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Section 2. R.S. 42:1124.2(C)(9) and (10) are hereby repealed in their entirety.

Section 3. This Act shall become effective January 1, 2009.

DIGEST

Greene HB No. 902

Abstract: Removes requirement that the name and brief description of investment securities and a brief description, amount, and date of purchases and sales of certain property be included in financial statement required to be filed by legislators and certain other officials. Adds disclosure of securities which provide income. Provides exceptions.

Present law (R.S. 42:1124.2-effective 01/01/2009) requires the following to annually file a financial statement with the Board of Ethics: (1) each member of the state legislature; (2) each person holding a public office who represents a voting district having a population of 5,000 or more persons; (3) each member of the Board of Ethics and the ethics administrator; (4) each member of the State Board of Elementary and Secondary Education; (5) each member of a state board or commission who receives a salary or other compensation for such public service in the amount of $16,800 or more per year; and (6) each member of a state board or commission which has the authority to expend, disburse, or invest $1,000,000 or more of funds in a fiscal year. Exempts statewide elected officials and certain executive branch officials required to file a financial statement under a different provision of present law (R.S. 42:1124).

Present law (R.S. 42:1124.2) generally requires the financial statement to contain the following:

(1) The name and address of the individual and his spouse and the spouse's occupation and business address.

(2) Specified information concerning businesses with which the individual and/or spouse is/are affiliated.

(3) Information concerning nonprofit organizations in which the individual or spouse is a director or officer.

(4) Specified information, including specific amounts, concerning income, direct or indirect, received by the individual or spouse from the state, a political subdivision, or certain gaming interests.

(5) Specified information concerning the individual's or spouse's employers, including amounts of income.

(6) Specified information concerning businesses from which the individual or his spouse receives income, including an aggregate amount.

(7) A description and amount of all other income exceeding $1,000.

(8) Specified information, including value, concerning immovable property valued at over $2,000 owned by the individual or spouse.

(9) The name and a brief description of each investment security having a value exceeding $5,000 held by the individual or spouse, excluding variable annuities, variable life insurance, variable universal life insurance, whole life insurance, any other life insurance product, mutual funds, education investment accounts, retirement

investment accounts, government bonds, and cash or cash equivalent investments. Also excluded is information concerning property held and administered for any person other than the individual or spouse under a trust, tutorship, curatorship, or other custodial instrument.

(10) A brief description, amount, and date of any purchase or sale, in excess of $5,000, of any immovable property and of any personally owned tax credit certificates, stocks, bonds, or commodities futures, including any option to acquire or dispose of any immovable property or of any personally owned tax credit certificates, stocks, bonds, or commodities futures. Excluded is information concerning variable annuities, variable life insurance, variable universal life insurance, whole life insurance, any other life insurance product, mutual funds, education investment accounts, retirement investment accounts, government bonds, cash or cash equivalent investments.

(11) Specified information concerning creditors to whom the individual or spouse owes liabilities exceeding $10,000; provides exceptions.

(12) A certification that the individual has filed his federal and state income tax returns or has filed for an extension of time for filing such tax returns.

<u>Present law</u> provides that (except with respect to amounts of income from public and gaming sources) when an amount is required to be disclosed, it shall be sufficient to report the amount by the following categories: (1) Category I, less than $5,000; (2) Category II, $5,000-$24,999; (3) Category III, $25,000-$100,000; and (4) Category IV, more than $100,000.

<u>Present law</u> provides deadlines for filing. Provides exemptions from disclosure requirements for certain information. Provides definitions. Provides that the financial statement is a public record.

<u>Proposed law</u> deletes (9) above relative to investment securities and deletes (10) above relative to purchases or sales of immovable property and stocks and other securities. Adds to the list of required information a brief description of each security which provides income to the individual or spouse, including the amount of the income. Exempts disclosure of information concerning any security held and administered for any person other than the individual or spouse under a trust, tutorship, curatorship, or other custodial instrument. Provides that the term "security" has the same meaning as provided in <u>present law</u> (R.S. 10:8–101 et seq.: Uniform Commercial Code—Investment Securities), except that the following are not included: variable annuities, variable life insurance, variable universal life insurance, whole life insurance, any other life insurance product, mutual funds, education investment accounts, retirement investment accounts, government bonds, and cash or cash equivalent investments. Otherwise retains <u>present law</u>.

(Amends R.S. 42:1124.2(C)(5)(b), (c), and (d), (7), and (8); Adds R.S. 42:1124.2(C)(5)(e) and (G)(5); Repeals R.S. 42:1124.2(C)(9) and (10))